

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

RAUL CARDENAS,)	No. CV-F-05-565 REC
)	(No. CR-F-95-5030 MDC)
)	
Petitioner,)	ORDER DENYING PETITIONER'S
)	MOTION TO VACATE, SET ASIDE
vs.)	OR CORRECT SENTENCE PURSUANT
)	TO 28 U.S.C. § 2255 AND
)	DIRECTING ENTRY OF JUDGMENT
UNITED STATES OF AMERICA,)	FOR RESPONDENT
)	
)	
Respondent.)	
)	
)	

On April 27, 2005, petitioner Raul Cardenas filed a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255.

Petitioner pleaded guilty pursuant to a written plea agreement to conspiracy to manufacture and distribute methamphetamine and to aiding and abetting the possession of methamphetamine with intent to distribute. Petitioner was sentenced on April 7, 1997 to 360 months incarceration. Petitioner did not appeal his conviction or sentence and has not previously filed a post-conviction motion challenging his

conviction or sentence.

In his Section 2255 motion, petitioner contends that he is entitled to relief because the Supreme Court's decisions in United States v. Booker, ___ U.S. ___, 125 S.Ct. 738 (2005) and Blakely v. Washington, ___ U.S. ___, 124 S.Ct. 2531 (2004) establish that the enhancements of his sentence pursuant to the Sentencing Guidelines were unconstitutional.

Petitioner is not entitled to relief on this ground because neither Booker nor Blakely have been made retroactively applicable to cases on collateral review. See Cook v. United States, 386 F.3d 949 (9th Cir. 2004); Green v. United States, 2005 WL 237204 (2nd Cir. 2005); McReynolds v. United States, 2005 WL 237642 (7th Cir. 2005); In re Anderson, 2005 WL 123923 (11th Cir. 2005).

ACCORDINGLY:

1. Petitioner Raul Cardenas' motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255 is denied.

2. The Clerk of the Court is directed to enter judgment for respondent.

IT IS SO ORDERED.

Dated: June 22, 2005
668554

/s/ Robert E. Coyle
UNITED STATES DISTRICT JUDGE